IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO.1103 OF 2001

The Secretary, Ministry of Defence,
Government of India, New Delhi & Anr. ...Appellants

Versus

Ramchandra Dinkarrao Salunkhe & Anr. ...Respondents

Shri T.K.Tripathi with Shri S.S.Sarkar for the Appellants.

CORAM : A. S. OKA, J.

DATE : JANUARY 29, 2007.

P.C.:

1. Heard learned Advocate appearing for the Appellants. The Appellant No.1 is Union of India. The Appellants have taken exception to the judgment and award dated 22nd September, 1993 passed by the learned Member of the Motor Accident Claims Tribunal at Satara by which compensation of Rs.40,000/- with interest thereon at the rate of 12% per annum was granted by the Tribunal. This Appeal preferred against the said award is coming up for admission 13 years after passing of the award. The submission of the learned counsel for the Appellants is that there is no basis for the finding recorded by the Tribunal as regards negligence on the part of the driver of the jeep owned by the

Appellants. His second submission is that interest at the rate of 12% per annum is excessive.

2. The Respondents herein are the parents of deceased Abhijeet who died in motor accident on 11th January, 1988 in an accident involving a jeep owned by the Appellant No.2. The deceased boy was studying in fourth standard at the relevant time. The Respondents examined one Madhav Bhoite, an eye witness to the accident. The learned Member of the Tribunal considered evidence of the eye-witness as well as evidence of the driver of the jeep. The learned Judge also considered the certified copies of the F.I.R and spot panchnama. At the time of accident, as deposed by eye-witness Madhav, the deceased had crossed 3/4th of the road. At that time, the jeep came from Kolhapur side in a high speed. The Respondents also examined one Baban Salunkhe who is the owner of a shop by the side of the road where the accident took place. He deposed that the jeep was in such a high speed that the boy was thrown at the distance of 20 feet and the jeep left the road and went down in a brook. The learned Member of the Tribunal has also considered the evidence of the driver of the jeep. The learned Judge noted

that near the spot of accident there was a sign board warning about the existence of a nearby school and therefore, it was duty of the driver to slow down the jeep and to drive it with extra care and caution as he was put to notice that a school was around. For the reasons recorded, the learned Member of the Tribunal accepted the evidence of eye-witnesses examined by the Respondents.

3. On the basis of the evidence laid by the Respondents that deceased boy was very intelligent and had all along obtained good marks in examination, compensation of Rs.40,000- has been fixed by the Tribunal. Considering the facts and circumstances of the case, the compensation amount is just and fair. Considering the fact that award is made in the year 1993, the rate of interest has been fixed at 12% per annum. I find no error in the rate of interest as the award is of the year 1993 in a case where accident had occurred in the year 1988. There is no error in the impugned award. Appeal is dismissed.

JUDGE